

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Kevin Braithwaite

Plaintiff,

v.

Marcello Rispoli et al.,

Defendants.

C.A. No. 04-1542-GMS

Trial By Jury Demanded

AFFIDAVIT OF MATT STEVENSON

I, Matt Stevenson, having been duly sworn according to law, depose and state as follows:

1. I make this affidavit based upon personal information.

2. I am employed by the State of Delaware's Department of Correction as a Correctional Lieutenant at the Delaware Correctional Center ("DCC") in Smyrna, Delaware. I have been employed by the DOC since July, 1998. My responsibilities include the implementation of prescribed policies and procedures ensuring the enforcement of institutional/departmental rules and regulations for staff and inmates. Additional duties include directing and participating in shakedowns of buildings, grounds and cell blocks to detect contraband and/or defects in the security system.

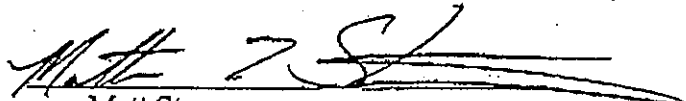
3. On October 9, 2004, around 9:00 AM, Building #17 called Building #20 control requesting back-up assistance on B-Tier. Sgt. David Phillips and I responded and found Sgt. Wallace, and C/Os Greg Turner and Edwin Nwkopara at Plaintiff Kevin Braithwaite's ("Braithwaite") cell. Sgt. Wallace informed us that Braithwaite refused to remove his boxers during the shakedown raising suspicion that Braithwaite was

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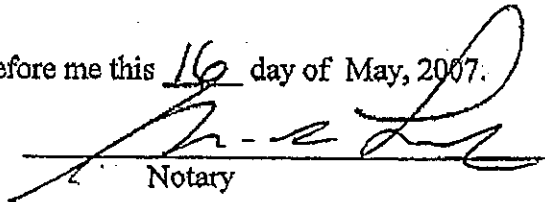
concealing something in the waistband of the boxers as there was a slight bulge. We also were informed that Sgt. Wallace used capstun on Braithwaite as Braithwaite had swung on Sgt. Wallace.

4. Sgt. Phillips ordered the control pod to open Braithwaite's cell door and ordered Braithwaite to come to the door to be handcuffed. Braithwaite refused saying that he wasn't going to be handcuffed. Sgt. Phillips repeated the order. Finally, Braithwaite approached the door **very slowly and reluctantly**. At this point Sgt. Phillips ordered him to turn around to be handcuffed. Braithwaite complied, but just as Sgt. Phillips was handcuffing Braithwaite, he pulled away and attempted to strike Sgt. Phillips with his free hand due to the fact he was not completely secured at this point. Simultaneously, Sgts. Phillips, Wallace and Myself pulled him out of the cell. Phillips and Wallace were securing his arms and I secured his legs. We then handcuffed and shackled him.

5. Sgt. Phillips and I then escorted Braithwaite to Building #20 and placed him in the cage until he could be seen by medical. Nurse Kira arrived and poured milk on Braithwaite's face neutralizing the effects of the capstun. Braithwaite was then cleared to be moved to Building #18 C tier isolation. Sgt. Phillips and I then escorted Braithwaite to Building #18 and placed him in lower cell #3 on C tier isolation status without any further incident.


Matt Stevenson

SWORN TO AND SUBSCRIBED before me this 16 day of May, 2007.


Notary

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INCIDENT REPORTGroup#: N/AType: Inmate InvolvedIncident Date: 10/09/2004Time: 09:00Confidential: NoFacility: DCC Delaware Correctional CenterFollowup Required: NoIncident Location: Bldg. 17 B TierLocation Description: cell CU8Violated Conditions: 1.02/200.201 Assault1.06/200.203 Disorderly or Threatening Behavior1.18/200.218 Possession of Dangerous Contraband2.06/200.108 Failing to Obey an Order2.13/200.111 Possession of Non-Dangerous Contraband**Description of Incident:**

On 10/9/2004 at approx 0900 Building 17 called Building 20 control and said they needed back-up in building 17 B tier. Sgt. David Phillips and myself (Sgt. Matt Stevenson) responded to Building 17 B tier and found Sgt. Robert Wallace, C/O Greg Turner, and C/O Edwin Nwopara at Cell upper 8 which is Inmate Kevin Brathwaite #00315294. Sgt. Wallace briefed Sgt. Phillips and Sgt. Stevenson that Inmate Brathwaite was refusing to let him check his boxers for a shakedown. Sgt. Wallace explained that he was pretty sure there was a bulge in the waist band. Sgt. Wallace had used Cap-foam on Inmate Brathwaite (which was ineffective) because I/M Brathwaite had swung on Sgt. Wallace. So Sgt. Phillips approached the door and had 17 control pod open cell door at which time Sgt. Phillips called Inmate Brathwaite to door to be handcuffed. Inmate Brathwaite refused saying he wasn't being handcuffed. Sgt. Phillips repeated the order. Finally Inmate Brathwaite came to door and Sgt. Phillips told Inmate Brathwaite to turn around which Inmate Brathwaite did. However as Sgt. Phillips was handcuffing Inmate Brathwaite, he pulled away and attempted to strike at Sgt. Phillips. Sgt. Phillips, Sgt. Wallace, Sgt. Stevenson, C/O Turner, and C/O Nwopara took Inmate Brathwaite to the ground and handcuffed and shackled him. Sgt. Phillips and I then escorted Inmate Brathwaite up to Building 20 and placed him in the cage until he could be seen by medical. Sgt. Phillips had Nurse Kira see Inmate Brathwaite. Nurse Kira poured milk on Inmate Brathwaite's face and cleared Inmate Brathwaite to be moved to 18 C tier isolation. Sgt. Phillips and I then escorted Inmate Brathwaite to Building 18 and placed him in lower cell 3 on C tier isolation status.

Injured Persons	Hospitalized	Nature Of Injuries
N/A	N/A	N/A

Evidence Type: N/ADate Collected: N/ADiscovered By: N/ASecured By: N/AType of Force Used: ☒ PHYSICAL ☐ CHEMICAL ☐ STUN ☐ OTHER ☒ CAPSTUN ☐ NONE

Restraints Used : cuffs & shackles per SOPs

Immediate Action Taken:

I/M placed in isolation on pre-hearing detention

Individuals Involved			
Person Code	Name	SBI#	Title
Staff	Mathew, Stevenson	N/A	CO Corporal/Sgt. - Large Inst.
Staff	David, Phillips	N/A	CO Corporal/Sgt. - Large Inst.
Staff	Robert, Wallace J	N/A	CO Corporal/Sgt. - Large Inst.
Staff	Edwin, Nkwopara O	N/A	Correctional Officer
Staff	Gregory, Turner M	N/A	CO Corporal/Sgt. - Large Inst.
Staff	Kira, Hargan	N/A	Contractors - Medical
Inmate	Kevin, Brathwaite C	00315294	N/A

Reporting Officer: Stevenson, Mathew (Co Corporal/Sgt. - Large Inst.) Entered By: Stevenson, Mathew (Co Corporal/Sgt. - Large Inst.)

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INCIDENT REPORTGroup#: N/AType: Inmate InvolvedIncident Date: 10/09/2004Time: 09:00Confidential: No**Approval Information**☒ Approved ☐ Disapproved Date: 10/09/2004 Approved by: Reynolds, Kirk (Shift Commander - Large Inst.)Comments: N/A

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